



**PATENT APPLICATION**



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Lingappa K. MESTHA et al.

Group Art Unit: 2857

Application No.: 09/941,858

Examiner: F. Suarez

Filed: August 30, 2001

Docket No.: 109257

For: SYSTEMS AND METHODS FOR DETERMINING SPECTRA USING DYNAMIC LEAST SQUARES ALGORITHMS WITH MEASUREMENTS FROM LED COLOR SENSOR

**REQUEST FOR RECONSIDERATION**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In reply to the March 28, 2003 Office Action, reconsideration is respectfully requested in view of the following remarks. Claims 1-26 are pending.

A. The Office Action rejects claims 1-3, 8, 9, 11-13, 18, 19 and 21-26 under 35 U.S.C. §102(e) over U.S. Patent No. 6,449,045 to Mestha ("045 patent"). This rejection is respectfully traversed.

For example, the 045 patent does not disclose determining a spectrum, wherein the determining step places greater importance on the data in the neighborhood of each reflectance value obtained from a target. The Office Action asserts that column 5, lines 46-67 of the 045 patent disclose this feature, but this is not the case. The referenced passage simply contains no mention of such a feature.

For at least this reason, the 045 patent fails to disclose each and every feature recited in claims 1 and 11. Accordingly, claims 1 and 11 are patentably distinct from the 045 patent. The remaining claims each depend from claim 1 or claim 11, and for at least this reason also patentably define over the 045 patent. Withdrawal of this rejection is respectfully traversed.

B. The Office Action rejects claims 10 and 20 under 35 U.S.C. §103(a) over the 045 patent in view of U.S. Patent No. 6,147,761 to Walowit. This rejection is respectfully traversed.

The 045 patent, in terms of its filing and published dates, qualifies as prior art only under 35 U.S.C. §102(e). Furthermore, the subject matter of the 045 patent and the subject matter of the present application were, at the time of the present invention, subject to an obligation of assignment to the same entity. Therefore, according to 35 U.S.C. §103(c), the 045 patent may not be applied against this application under §103. Withdrawal of this rejection is respectfully requested.

C. Applicants note with appreciation the indication of allowable subject matter in claims 4-7 and 14-17. These claims are not rewritten in independent format at this time because their base claims are believed to be allowable as discussed above.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of the claims are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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JAO:JAN/vgp

Date: June 27, 2003

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